

P-999/C-93-90 ORDER ADOPTING SETTLEMENT AGREEMENT REGARDING LOCAL EXCHANGE COMPANY ACCESS CHARGES FOR INDEPENDENT LOCAL EXCHANGE CARRIERS, WITH ONE MODIFICATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Commission Solicitation of
Comments Regarding Access Charges

ISSUE DATE: December 20, 1994

DOCKET NO. P-999/C-93-90

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PROCEDURAL HISTORY

On February 16, 1993, the Commission issued its ORDER APPROVING SETTLEMENT, REQUIRING NOTICE TO CUSTOMERS AND FILING OF TARIFFS, AND SOLICITING COMMENTS in Docket No. P-421/C-90-1184¹. In that Order the Commission resolved a dispute regarding access charges between AT&T Communications of the Midwest, Inc. (AT&T) and US WEST Communications, Inc. (US WEST). The Commission also solicited comments from interested parties regarding the process and principles for an overall resolution of access charge issues. The latter matter was assigned to the above-captioned docket.

On March 15, 1994, the Commission met to consider the comments filed in response to the Commission's solicitation. At that meeting, the Minnesota Independent Coalition (MIC) and Vista Telephone Company of Minnesota (Vista) proposed a joint plan for future procedures in this docket.

On March 18, 1994, the Commission issued its ORDER REQUIRING FILING. In that Order the Commission ordered MIC/Vista to submit a proposed procedure under which parties would meet on access charge structure issues and report to the Commission.

On March 22, 1994, MIC/Vista filed a written proposal.

On April 8, 1994, the Commission issued its ORDER APPROVING SETTLEMENT PROPOSALS WITH MODIFICATIONS. In that Order the Commission initiated an investigation of access charges. The Commission also approved separate settlement procedures for MIC/Vista and other participating parties and for US WEST. The Commission required the parties to fully develop eight issues during their negotiation process. The issues included: the basic principles governing access pricing; the methodology for access pricing; the continuation of the Carrier Common Line Charge (CCLC); possible restructuring of local transport; the

¹ In the Matter of the Complaint of AT&T Communications of the Midwest Inc. Concerning Excessive Rates for Access Services Provided by US WEST Communications, Inc.

relationship between access charges and other rates; incorporation of a high cost fund into access charges; revenue or income neutrality for LECs; and the minimization of swings in customer bills.

On August 4, 1994, the Commission issued its ORDER EXTENDING TIME LINES, granting the parties additional time to reach and submit a settlement.

On August 30, 1994, after a number of meetings, the parties filed two settlement agreements which were meant to address most outstanding issues regarding access charges. The first document was entitled Settlement Agreement Regarding Local Exchange Company Access Charges for GTE Minnesota, Inc., GTE Midwest Incorporated, United Telephone Company of Minnesota and Vista Telephone Company of Minnesota. This agreement was signed by the Department of Public Service (the Department), Contel of Minnesota, Inc. and GTE Midwest Incorporated (GTE), United Telephone Company of Minnesota (United), Vista Telephone Company of Minnesota (Vista), MCI Telecommunications Corporation (MCI), Sprint Communications Company L.P., AT&T, and US WEST. This agreement is the subject of a separate Commission Order of even date.²

The second settlement agreement was entitled Settlement Agreement Regarding Local Exchange Company Access Charges for Independent Local Exchange Carriers. This agreement was signed by the Department, the MIC, AT&T, Sprint, MCI, and US WEST. This agreement is the subject of this Order.

On October 10, 1994, the Residential Utilities Division of the Office of the Attorney General (RUD-OAG) filed comments regarding both proposed settlements. The RUD-OAG indicated that it was not a signatory to the settlement documents, but did not oppose Commission approval of the settlements as being in the public interest.

On December 6, 1994, the two proposed settlements on access charges came before the Commission for consideration.

FINDINGS AND CONCLUSIONS

I. THE SETTLEMENT AGREEMENT

A. Representation of Minnesota Independent Local Exchange Carriers

In the settlement negotiations and drafting of the Settlement Agreement, the MIC represented the viewpoint of Minnesota independent local exchange carriers (ILECs). The MIC is an unincorporated association of ILECs which counts in its membership approximately 84 of the 92 ILECs currently operating in Minnesota. Although the MIC does not have the authority to obligate either MIC members or non-MIC members, the MIC discussed the negotiations with both categories of ILECs as the talks were taking place. Notice of the terms of the Settlement Agreement was sent to MIC members, and nearly all responded in favor of the Settlement.

B. Terms of the Settlement Agreement

1. Under the Settlement Agreement, most ILECs would reduce their access charges. Most

² ORDER ADOPTING SETTLEMENT AGREEMENT REGARDING LOCAL EXCHANGE COMPANY ACCESS CHARGES FOR GTE, UNITED, AND VISTA, WITH ONE MODIFICATION, Docket no. P-999/C-93-90.

would offset the revenue reduction by a growth in access minutes of use (MOU), rather than through a rate increase.

2. The parties agreed that the target composite access rate for each ILEC would be 6.445 cents per MOU, an amount equal to the current interstate rate for many ILECs. If an ILEC's actual composite access rate exceeds the target rate, that ILEC's composite rate would be reduced in three steps, on or before January 1, 1995, 1996, and 1997.
3. If the ILECs have above-average earnings, the proposed access rate reductions would be accelerated. Under the proposed agreement, at least 75% of any rate reductions due to overearnings would be used to reduce access charges.
4. Any access revenue reduction resulting from an investigation of prior intrastate earnings levels that is adopted on or after September 1, 1994, would be considered within the Settlement Agreement and would be used to determine compliance with the reduction scheduled for January 1, 1995. Any reductions from future earnings investigations would be rolled into the Settlement Agreement in a similar fashion.
5. The composite rates contemplated in the Settlement Agreement would be subject to adjustment to address matters outside the scope of the Settlement, such as changes in EAS rate determination methods, significant construction activities, mandated network upgrades, or similar matters.
6. AT&T, MCI, Sprint, and US WEST (in its capacity as a toll provider) would reduce toll charges in an amount commensurate with the access charge reductions. AT&T would adjust its intrastate per minute message toll rates to reflect, on no less than a dollar for dollar basis, cost savings from the access rate decreases, including any switched access rate reductions of US WEST.

MCI and Sprint would reduce their toll rates within 60 days of AT&T's rate reductions. MCI and Sprint would have the exclusive right to determine which rates they would reduce, except as otherwise limited under law.

US WEST would adjust its intrastate message toll service rates to reflect, on no less than a dollar for dollar basis, access rate decreases to be made in 1995 pursuant to this Settlement Agreement, on or around January 1, 1995. After the first year US WEST would reduce either 1) its intrastate toll rates, 2) its local transport rates under separate consideration in this same docket, or 3) its Carrier Common Line Charges (CCLC), any of which would be without any offsetting rate decrease.

7. The parties to the Settlement Agreement agreed that its adoption by the Commission would be in the public interest.

C. The Parties' Treatment of the Eight Issues Previously Raised by the Commission

The parties did not reach consensus on the eight issues articulated by the Commission in its April 8, 1994, Order. The parties did state that the Settlement was based upon a consideration of the eight issues.

II. COMMISSION ACTION

A. Adoption of the Settlement

The Commission agrees with the parties to the Settlement that the overall agreement is in the

public interest. The Settlement represents a first step toward settling the difficult and important issues surrounding access charges.

Adoption of the Settlement will be in the best interests of the parties and consumers. As a result of the Settlement, a reduction in LEC access charges will be effected without time-consuming and expensive litigation. The agreement will result in a reduction in interLATA and intraLATA toll rates implemented by interexchange carriers. The Settlement is structured to minimize LEC rate increases.

The Commission notes that the parties' agreement to reduce access charges means that LECs will experience a reduction in an important revenue source. A significant question is therefore raised by the Settlement: what, if any, revenue offsets will be necessary for LECs? The parties have begun the process of answering this question in the Settlement. The Commission will carefully monitor and assess the development of this issue as the Settlement is implemented.

B. The Commission's Eight Issues

Although the parties did agree on the basic terms necessary to arrive at an access charge agreement, they failed to meaningfully address the eight questions raised by the Commission in its April 8, 1994, Order. These questions focus on the major policy issues underlying access charges. By drafting the Settlement without reaching consensus on the eight issues, the parties have achieved a respite in the underlying investigation, but have not resolved the fundamental policy issues.

Because the Commission believes that the terms of the Settlement are reasonable and sound, the Commission will accept the proposed Settlement without a resolution of the eight basic issues. The Commission will, however, carefully monitor the implementation of the Settlement. If the underlying issues have not been resolved to the Commission's satisfaction at the end of the Settlement period, the Commission will ensure a resolution is reached, whether by contested case proceeding, investigation, or by some other means. The Commission will at that time have further understanding of telecommunications developments and the benefit of the parties' experience under the Settlement. The Commission will use the knowledge it has gained during the Settlement period to ensure a final satisfactory resolution of the fundamental issues underlying access charges.

C. Modification of the Settlement

The Commission finds that one modification to the Settlement is necessary. Under the Settlement as drafted, US WEST would adjust its intrastate intraLATA toll rates to reflect the access charge decreases for the first year. For the remainder of the Settlement period, US WEST would decide if the reduction would be reflected in toll rates, switched access transport rates, or in the CCLC. The Commission finds that the Settlement should be modified to require US WEST to reflect access charge decreases in the CCLC throughout the Settlement period.

US WEST's application of access charge reductions to the CCLC is preferable to other methods because it is likely to have a multiplier effect. IXC's which pay access charges to US WEST will realize reduced access expense. These IXC's are in turn likely to reduce their rates to reflect the access charge reduction, particularly in light of the move to competition in the intraLATA 1+ arena. The reduction in US WEST's CCLC is thus likely to reduce not only the access rates charged by US WEST, but also the toll rates charged by other IXC's.

US WEST's application of the access charge reduction to its CCLC will bring about lower rates in an area of service which faces little or no competition. In contrast, intraLATA toll and switched access transport are or will be experiencing increasing competition. The greater

competition in these areas of service is likely to stimulate a decrease in rates. Without such a market stimulus, the CCLC is unlikely to experience rate decreases unless US WEST is required to adjust for access rate reductions.

US WEST's adjustment to its CCLC to reflect access charge reductions would thus have a favorable effect on rates in this area and on IXC's toll rates. The Commission will therefore modify the Settlement to require US WEST to apply access charge reductions to the CCLC for the entire Settlement period.

The Commission adopts the parties' September 1, 1994, Settlement with one modification: US WEST shall apply access charge reductions to its CCLC, on a dollar for dollar basis, for the length of the Settlement period.

ORDER

1. The Commission adopts the parties' attached September 1, 1994, Settlement with one modification: for the term of the Settlement US WEST shall apply, on a dollar for dollar basis, all access charge reductions to its CCLC.
2. Within 10 days of the date of this Order, ILECs making access charge reductions to be effective January 1, 1995, shall file revised tariff pages reflecting 1995 reductions.
3. ILECs making access charge reductions to be effective January 1, 1996, shall file tariffs for these proposed access charges by November 1, 1995. ILECs making access charge reductions to be effective January 1, 1997, shall file tariffs by November 1, 1996.
4. Any ILEC requiring an offset to previous access charge reductions shall file such offset and a proposed customer notice 60 days prior to the proposed effective date of the new rates.
5. ILECs shall notify their access customers of all reductions as they occur.
6. In accordance with the Settlement, AT&T shall file price list reductions to its message toll service reflecting reductions which will take effect no later than 60 days after the LEC reductions.
7. Within 60 days of scheduled access charge reductions, the Department of Public Service shall inform the Commission of any ILEC that is not in compliance with the Order.
8. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)